

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
Claudio Rene, *individually and on behalf of others*
similarly situated,

Plaintiff,

-against-

31 East 21 Express Inc., Best Thai On 8 Corp., RTC 18 Corp., 331 Lexington Restaurant Corp. (All Doing Business as Rhong-Tiam Express), Express Thai One, Inc., Lucky Thai Express Inc., Pun San Laan Inc, Best Thai On Gramercy Inc., Karnchanart Sae Loo, Andy Yangeksakul A/K/A Andy Yang, Macharvadee Premwongsiri And Thanaphan Laonutwuttikul,

Defendants.
-----X

Index No.: 1:21-cv-07435

**ANSWER WITH
AFFIRMATIVE
DEFENSES**

Defendants Pun San Laan Inc. and Thanaphan Laonutwuttikul (together, the “Defendants”), by and through their undersigned attorneys, Levin-Epstein & Associates, P.C., as and for their answer and affirmative defenses to the Complaint, filed on March 20, 2023 (the “Second Amended Complaint”) of Plaintiff Claudio Rene (the “Plaintiff”), hereby admit, deny and allege as follows:

INTRODUCTION

1. The allegations contained in paragraph “1” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “1” of the Complaint.

2. The allegations contained in paragraph “2” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “2” of the Complaint.

JURISDICTION AND VENUE

3. The allegations contained in paragraph “3” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “3” of the Complaint.

4. The allegations contained in paragraph “4” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “4” of the Complaint.

THE PARTIES

5. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “5” of the Complaint.

6. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “6” of the Complaint.

7. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “7” of the Complaint.

8. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “8” of the Complaint.

9. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “9” of the Complaint.

10. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “10” of the Complaint.

11. Defendant admits the allegations contained in paragraph “11” of the Complaint.

12. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “12” of the Complaint.

13. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “13” of the Complaint. To the extent a response is required, Defendant denies the allegations contained in paragraph “13” of the Complaint.

14. The allegations contained in paragraph “14” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “14” of the Complaint.

15. The allegations contained in paragraph “15” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “15” of the Complaint.

16. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “16” of the Complaint. To the extent a response is required, Defendant denies the allegations contained in paragraph “16” of the Complaint.

17. The allegations contained in paragraph “17” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “17” of the Complaint.

18. The allegations contained in paragraph “18” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “18” of the Complaint.

19. The allegations contained in paragraph “19” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “19” of the Complaint.

20. The allegations contained in paragraph “20” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “20” of the Complaint.

21. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “21” of the Complaint.

22. The allegations contained in paragraph “22” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “22” of the Complaint.

23. The allegations contained in paragraph “23” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “23” of the Complaint.

24. The allegations contained in paragraph “24” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “24” of the Complaint.

25. The allegations contained in paragraph “25” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “25” of the Complaint.

26. The allegations contained in paragraph “26” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “26” of the Complaint.

27. The allegations contained in paragraph “27” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “27” of the Complaint.

28. The allegations contained in paragraph “28” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “28” of the Complaint.

29. The allegations contained in paragraph “29” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “29” of the Complaint.

30. The allegations contained in paragraph “30” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “30” of the Complaint.

31. The allegations contained in paragraph “31” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “31” of the Complaint.

32. The allegations contained in paragraph “32” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “32” of the Complaint.

33. The allegations contained in paragraph “33” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “33” of the Complaint.

34. The allegations contained in paragraph “34” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “34” of the Complaint.

35. The allegations contained in paragraph “35” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “35” of the Complaint.

36. The allegations contained in paragraph “36” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “36” of the Complaint.

37. The allegations contained in paragraph “37” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “37” of the Complaint.

38. The allegations contained in paragraph “38” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “38” of the Complaint.

39. The allegations contained in paragraph “39” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “39” of the Complaint.

40. The allegations contained in paragraph “40” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “40” of the Complaint.

41. The allegations contained in paragraph “41” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “41” of the Complaint.

42. The allegations contained in paragraph “42” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “42” of the Complaint.

43. The allegations contained in paragraph “43” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “43” of the Complaint.

44. The allegations contained in paragraph “44” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant

denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “44” of the Complaint.

45. The allegations contained in paragraph “45” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “45” of the Complaint.

46. The allegations contained in paragraph “46” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “46” of the Complaint.

47. The allegations contained in paragraph “47” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “47” of the Complaint.

48. The allegations contained in paragraph “48” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “48” of the Complaint.

49. The allegations contained in paragraph “49” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “49” of the Complaint.

50. The allegations contained in paragraph “50” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “50” of the Complaint.

51. The allegations contained in paragraph “51” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “51” of the Complaint.

52. The allegations contained in paragraph “52” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “52” of the Complaint.

53. The allegations contained in paragraph “53” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “53” of the Complaint.

54. The allegations contained in paragraph “54” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “54” of the Complaint.

55. The allegations contained in paragraph “55” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant

denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “55” of the Complaint.

56. The allegations contained in paragraph “56” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “56” of the Complaint.

NATURE OF THE ACTION

57. The allegations contained in paragraph “57” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “57” of the Complaint.

58. The allegations contained in paragraph “58” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “58” of the Complaint.

59. The allegations contained in paragraph “59” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “59” of the Complaint.

60. The allegations contained in paragraph “60” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “60” of the Complaint.

61. The allegations contained in paragraph “61” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “61” of the Complaint.

FACT ALLEGATIONS

I. Defendants' Wage and Hour Violations

62. The allegations contained in paragraph “62” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “62” of the Complaint.

A. Plaintiff's Schedule and Pay

63. The allegations contained in paragraph “63” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “63” of the Complaint.

64. The allegations contained in paragraph “64” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “64” of the Complaint.

65. The allegations contained in paragraph “65” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “65” of the Complaint.

66. The allegations contained in paragraph “66” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “66” of the Complaint.

67. The allegations contained in paragraph “67” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “67” of the Complaint.

68. The allegations contained in paragraph “68” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “68” of the Complaint.

69. The allegations contained in paragraph “69” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “69” of the Complaint.

70. The allegations contained in paragraph “70” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “70” of the Complaint.

71. The allegations contained in paragraph “71” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “71” of the Complaint.

72. The allegations contained in paragraph “72” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “72” of the Complaint.

73. The allegations contained in paragraph “73” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “73” of the Complaint.

74. The allegations contained in paragraph “74” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “74” of the Complaint.

75. The allegations contained in paragraph “75” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “75” of the Complaint.

76. The allegations contained in paragraph “76” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “76” of the Complaint.

77. The allegations contained in paragraph “77” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “77” of the Complaint.

78. The allegations contained in paragraph “78” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “78” of the Complaint.

79. The allegations contained in paragraph “79” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “79” of the Complaint.

80. The allegations contained in paragraph “80” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “80” of the Complaint.

B. Violations Affecting Plaintiff.

1. Overtime Violations

81. The allegations contained in paragraph “81” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “81” of the Complaint.

2. Notice and Recordkeeping Violations

82. The allegations contained in paragraph “82” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “82” of the Complaint.

83. The allegations contained in paragraph “83” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “83” of the Complaint.

84. The allegations contained in paragraph “84” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “84” of the Complaint.

85. The allegations contained in paragraph “85” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “85” of the Complaint.

3. Defendants’ Failure to Pay Spread-of-Hours Payments Violations

86. The allegations contained in paragraph “86” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “86” of the Complaint.

87. The allegations contained in paragraph “87” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “87” of the Complaint.

II. Defendants’ National Origin and Ethnicity Discrimination

88. The allegations contained in paragraph “88” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “88” of the Complaint.

89. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “89” of the Complaint.

90. The allegations contained in paragraph “90” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “90” of the Complaint.

91. The allegations contained in paragraph “91” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “91” of the Complaint.

92. The allegations contained in paragraph “92” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “92” of the Complaint.

93. The allegations contained in paragraph “93” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “93” of the Complaint.

III. Collective Action Allegations Under Fed. R. Civ. P. 23(b)(3) for Violations of the NYLL

94. The allegations contained in paragraph “94” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “94” of the Complaint.

95. The allegations contained in paragraph “95” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “95” of the Complaint.

96. The allegations contained in paragraph “96” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “96” of the Complaint.

97. The allegations contained in paragraph “97” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “97” of the Complaint.

98. The allegations contained in paragraph “98” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “98” of the Complaint.

99. The allegations contained in paragraph “99” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “99” of the Complaint.

100. The allegations contained in paragraph “100” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “100” of the Complaint.

101. The allegations contained in paragraph “101” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “101” of the Complaint.

102. The allegations contained in paragraph “102” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “102” of the Complaint.

103. The allegations contained in paragraph “103” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “103” of the Complaint.

104. The allegations contained in paragraph “104” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “104” of the Complaint.

105. The allegations contained in paragraph “105” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “105” of the Complaint.

106. The allegations contained in paragraph “106” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “106” of the Complaint.

107. The allegations contained in paragraph “107” of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph “107” of the Complaint.

FIRST CLAIM FOR RELIEF
(FLSA Overtime Wage Violations Against All Defendants)

108. No response is required to the statement set forth in paragraph “108” of the Complaint.

109. The allegations contained in paragraph “109” of the Complaint set forth legal conclusions for which no response is required.

110. The allegations contained in paragraph “110” of the Complaint set forth legal conclusions for which no response is required.

111. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “111” of the Complaint.

SECOND CLAIM FOR RELIEF
(NYLL Overtime Wage Violations Against All Defendants)

112. No response is required to the statement set forth in paragraph “112” of the Complaint.

113. The allegations contained in paragraph “113” of the Complaint set forth legal conclusions for which no response is required.

114. The allegations contained in paragraph “114” of the Complaint set forth legal conclusions for which no response is required.

115. The allegations contained in paragraph “115” of the Complaint set forth legal conclusions for which no response is required.

THIRD CLAIM FOR RELIEF
(NYLL Failure to Notify Against All Defendants)

116. No response is required to the statement set forth in paragraph “116” of the Complaint.

117. The allegations contained in paragraph “117” of the Complaint set forth legal conclusions for which no response is required.

118. The allegations contained in paragraph “118” of the Complaint set forth legal conclusions for which no response is required.

119. The allegations contained in paragraph “119” of the Complaint set forth legal conclusions for which no response is required.

120. The allegations contained in paragraph “120” of the Complaint set forth legal conclusions for which no response is required.

FOURTH CLAIM FOR RELIEF
(NYLL Unpaid Spread-of-Hours Against All Defendants)

121. No response is required to the statement set forth in paragraph “121” of the Complaint.

122. The allegations contained in paragraph “122” of the Complaint set forth legal conclusions for which no response is required.

123. The allegations contained in paragraph “123” of the Complaint set forth legal conclusions for which no response is required.

124. The allegations contained in paragraph “124” of the Complaint set forth legal conclusions for which no response is required.

FIFTH CAUSE OF ACTION
(Race and Color Discrimination under Section 1981
against Defendants Laan, Lucky, and Laonutwuttikul)

125. No response is required to the statement set forth in paragraph “125” of the Complaint.

126. The allegations contained in paragraph “126” of the Complaint set forth legal conclusions for which no response is required.

127. The allegations contained in paragraph “127” of the Complaint set forth legal conclusions for which no response is required.

128. The allegations contained in paragraph “128” of the Complaint set forth legal conclusions for which no response is required.

129. The allegations contained in paragraph “129” of the Complaint set forth legal conclusions for which no response is required.

130. The allegations contained in paragraph “130” of the Complaint set forth legal conclusions for which no response is required.

SIXTH CLAIM FOR RELIEF

**(City Law Discrimination
On the Basis of Ethnicity and National Origin
Against the New Owners and Pun San)**

131. No response is required to the statement set forth in paragraph “131” of the Complaint.

132. The allegations contained in paragraph “132” of the Complaint set forth legal conclusions for which no response is required.

133. The allegations contained in paragraph “133” of the Complaint set forth legal conclusions for which no response is required.

134. The allegations contained in paragraph “134” of the Complaint set forth legal conclusions for which no response is required.

SEVENTH CLAIM FOR RELIEF

**(Human Rights Law Discrimination
On the Basis of Ethnicity and National Origin
against Defendants Laan, Lucky, and Laonutwuttikul)**

135. No response is required to the statement set forth in paragraph “135” of the Complaint.

136. The allegations contained in paragraph “136” of the Complaint set forth legal conclusions for which no response is required.

137. The allegations contained in paragraph “137” of the Complaint set forth legal conclusions for which no response is required.

138. The allegations contained in paragraph “138” of the Complaint set forth legal conclusions for which no response is required.

PRAYER FOR RELIEF

139. Defendant denies that Plaintiff is entitled to any relief sought in the “WHEREFORE” clause.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

140. Plaintiff fails to state a claim, in whole or in part, upon which relief may be granted, either on his own behalf or on behalf of those persons who Plaintiff purports to represent, or to whom he purportedly is similarly situated.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

141. Plaintiff’s claims, and those of the members of the putative classes whom Plaintiff purports to represent, are barred in whole or in part by applicable statutes of limitation under 29 U.S.C. § 255, and NYLL §§ 198(3), 663(3).

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

142. Plaintiff’s claims, and those of the members of the putative classes whom Plaintiff purports to represent, are barred in whole or in part by the equitable doctrines of unclean hands, unjust enrichment, laches, offset and/or set off and/or estoppel.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

143. Plaintiff’s claims, and those of the members of the putative classes whom Plaintiff purports to represent, are barred in whole or in part because Plaintiff has not suffered any injury or damage as a result of any actions allegedly taken by Defendant.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

144. Plaintiff’s claims, and those of the members of the putative classes whom Plaintiff purports to represent, are barred in whole or in part because the Complaint is uncertain in that the purported class definitions are ambiguous and conclusory.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

145. If Defendant is found to have failed to pay Plaintiff and any putative member of the classes whom Plaintiff purports to represent any wages owed, which Defendant expressly denies, Defendant nevertheless acted at all times on the basis of a good faith and reasonable belief that they had complied fully with all applicable laws and had no actual or constructive notice of any violation. The actions taken or omitted by Defendant were also in good faith conformity with administrative regulations and/or guidance and/or interpretations issued by the U.S. Department of Labor and the New York State Department of Labor.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

146. Plaintiff's claims, and those of the members of the putative classes whom Plaintiff purports to represent, are barred in whole or in part to the extent injunctive and/or other equitable relief is sought, because all have an adequate remedy at law and have suffered no irreparable harm due to any alleged conduct of Defendant. Payment to any Plaintiff for any wages due (which Defendant expressly denies are due) would fully compensate them and make them whole, belying the propriety of any non-economic relief.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

147. To the extent Plaintiff and members of the putative classes whom Plaintiff purports to represent suffered injury, which Defendant expressly denies, subject to proof through discovery, any such injury is the result of acts or omissions of such individuals, and not any act or omission of Defendant.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

148. Plaintiff is not entitled to certification of this action as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure because the purported class is not ascertainable

and also not so numerous that joinder of its members is impracticable, Plaintiff cannot satisfy the requirement of superiority, questions of law or fact are not common to the class, Plaintiff's claims are not typical of the claims or defenses of the purported class, Plaintiff will not fairly and adequately protect the interests of the class, Plaintiff's interest conflict with those of putative class members, and/or the requirements of Fed.R.Civ.Pro. 23(b) are not met in this case.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

149. Plaintiff is not entitled to certification of this action as a collective action pursuant to Section 216(b) of the FLSA because Plaintiff and the purported class members he seeks to represent are not similarly situated to one another, Plaintiff's claims require individualized inquiries, and/or proof of damages would require separate trials.

AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE

150. Plaintiff is an inadequate and atypical representative of the classes Plaintiff purports to represent and their interests are in conflict with those of the individuals Plaintiff seeks to represent.

AS AND FOR A TELFTH AFFIRMATIVE DEFENSE

151. Plaintiff's claims and those of the members of the putative classes whom Plaintiff purports to represent are barred in whole or in part because they were paid the requisite wages for all work performed and provided the requisite notices and wage statements for work performed.

AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE

152. Plaintiff's claims and those of the members of the putative classes whom Plaintiff purports to represent are barred to the extent they concern hours during which these individuals were engaged in activities that were preliminary or postliminary to their alleged work activities.

AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE

153. Plaintiff's claims and those of the members of the putative classes whom Plaintiff purports to represent are barred in whole or in part to the extent Defendant lacked actual or constructive knowledge of the hours allegedly worked.

AS AND FOR A FIFTEENTH AFFIRMATIVE DEFENSE

154. Plaintiff's claims and those of the members of the putative classes whom Plaintiff purports to represent are barred in whole or in part to the extent that these individuals have affirmatively released, waived, or abandoned all or some of the claims raised in the Complaint.

AS AND FOR A SIXTEENTH AFFIRMATIVE DEFENSE

155. Plaintiff's claims and those of the members of the putative classes whom Plaintiff purports to represent are barred, in whole or in part, because: (a) Defendant took reasonable steps to prevent and correct the conduct alleged in the Complaint; (b) Plaintiff unreasonably failed to use the preventative and corrective measures that Defendant provided; and (c) reasonable use of Defendant's procedures would have prevented at least some of the harm that Plaintiff allegedly, suffered, if any.

AS AND FOR A SEVENTEENTH AFFIRMATIVE DEFENSE

156. If Defendant's failure to pay requisite wages, provide notice and wage statements, and maintain records was unlawful, although such is not admitted, none of Defendant's acts or omissions constitute willful violation of the FLSA or NYLL.

AS AND FOR AN EIGHTEENTH AFFIRMATIVE DEFENSE

157. If Defendant's alleged failure to pay requisite wages, provide notice and wage statements, and maintain records was unlawful, although such is not admitted, neither Plaintiff nor members of the putative classes they seek to represent can demonstrate facts sufficient to warrant an award of liquidated damages.

AS AND FOR A NINETEENTH AFFIRMATIVE DEFENSE

158. Any failure to pay wages, provide notice and wage statements or maintain records required by the FLSA and/or NYLL to Plaintiff or members of the putative classes Plaintiff purports to represent is attributable to a bona fide dispute with respect to their entitlement to payment.

AS AND FOR A TWENTIETH AFFIRMATIVE DEFENSE

159. To the extent that Plaintiff, and members of the putative classes whom Plaintiff purports to represent, were paid compensation beyond that to which they were entitled, such additional compensation would satisfy, in whole or in part, any alleged claim for unpaid overtime or other monetary relief.

AS AND FOR A TWENTY FIRST AFFIRMATIVE DEFENSE

160. Assuming *arguendo*, Defendant violated any provision of the FLSA and/or New York Labor Law, such violation was not pursuant to a uniform policy or plan.

AS AND FOR A TWENTY SECOND AFFIRMATIVE DEFENSE

161. Supplemental or other jurisdiction should not be exercised over Plaintiff's New York Labor Law claims.

RESERVATION OF RIGHTS

162. Defendant reserves the right to raise additional affirmative defenses and to supplement those asserted herein upon discovery of further information and investigation into the Plaintiff's claims.

163. Defendant reserves the right to assert claims against Plaintiff arising out of Plaintiff's acts of theft.

WHEREFORE, Defendant demand judgment in their favor:

(a) denying Plaintiff is entitled to the relief for which he prays on behalf of themselves or any other individual or to any other relief.

(b) dismissing the Complaint against Defendant on the merits with prejudice and in its entirety;

(c) awarding Defendant their costs and disbursement, including reasonable attorneys' fees incurred in the action; and

(d) granting Defendant such other and further relief as the Court may deem just and proper.

Dated: May 1, 2023
New York, New York

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